

(3) Transfer of land used primarily for the raising of food, fiber or forage crops, trees, flowers, shrubs, turf products, livestock, or poultry, or for aquaculture, to the extent that, and for so long as, the project's water use continues to be for such agricultural water use purposes.

(c) Any project that did not require Commission approval prior to January 1, 2007, and not otherwise exempt from the requirements of paragraph (a)(1)(iv), (a)(2)(v), or (a)(3)(iv) pursuant to paragraph (b) of this section, may be undertaken by a new project sponsor upon a change of ownership pending action by the Commission on an application submitted by such project sponsor requesting review and approval of the project, provided such application is submitted to the Commission in accordance with this part within 90 days of the date change of ownership occurs and the project features related to the source, withdrawal, diversion or consumptive use of water, or the nature or quantity of water withdrawal, diversion or consumptive use associated with the project do not change pending review of the application. For purposes of this paragraph, changes in the quantity of water withdrawal, diversion or consumptive use shall only relate to increases in quantity in excess of the quantity withdrawn, diverted or consumptively used prior to the change of ownership.

[71 FR 78579, Dec. 29, 2006, as amended at 73 FR 1273, Jan. 8, 2008; 73 FR 78620, Dec. 23, 2008; 75 FR 60620, Oct. 1, 2010]

#### **§ 806.5 Projects that may require review and approval.**

(a) The following projects, if not otherwise requiring review and approval under § 806.4, and provided that the project sponsor is notified in writing by the Executive Director, may be subject to Commission review and approval as determined by the Commission or the Executive Director:

(1) Projects that may affect interstate water quality.

(2) Projects within a member state that have the potential to affect waters within another member state. This includes, but is not limited to, projects which have the potential to alter the physical, biological, chemical or

hydrological characteristics of water resources of interstate streams designated by the Commission under separate resolution.

(3) Projects that may have a significant effect upon the comprehensive plan.

(4) Projects not included in paragraphs (a)(1) through (a)(3) of this section, but which could have an adverse, adverse cumulative, or interstate effect on the water resources of the basin.

(b) Determinations by the Executive Director may be appealed to the Commission within 30 days after receipt of notice of such determination as set forth in § 808.2.

#### **§ 806.6 Transfer of approvals.**

(a) An existing Commission project approval may be transferred or conditionally transferred to a new project sponsor upon a change of ownership of the project, subject to the provisions of paragraphs (b), (c) and (d) of this section, and the new project sponsor may only operate the project in accordance with and subject to the terms and conditions of the existing approval pending approval of the transfer, provided the new project sponsor notifies the Commission within 90 days from the date of the change of ownership, which notice shall be on a form and in a manner prescribed by the Commission and under which the new project sponsor certifies its intention to comply with all terms and conditions of the transferred approval and assume all other associated obligations.

(b) An existing Commission project approval for any of the following categories of projects may be conditionally transferred, subject to administrative approval by the Executive Director, upon a change of ownership and the new project sponsor may only operate such project in accordance with and subject to the terms and conditions of the transferred approval:

(1) A project undergoing a change of ownership as a result of a corporate reorganization where the project property is transferred to a corporation by one or more corporations solely in exchange for stock or securities of the transferee corporation, provided that immediately after the exchange the

transferor corporation(s) own 80 percent of the voting stock and 80 percent of all other stock of the transferee corporation.

(i) Where property is transferred to a corporation by one or more corporations solely in exchange for stock or securities of the transferee corporation, provided that immediately after the exchange the transferor corporation(s) own 80 percent of the voting stock and 80 percent of all other stock of the transferee corporation.

(ii) Where the corporation reorganization is merely a result of a change of the name, identity, internal corporate structure or place of organization and does not affect ownership or control.

(2) A project being transferred to the transferor's spouse or one or more lineal descendants, or any spouse of such lineal descendants, or to a corporation owned or controlled by the transferor, or the transferor's spouse or lineal descendants, or any spouse of such lineal descendants, for so long as the combined ownership interest of the transferor, the transferor's spouse and/or the transferor's lineal descendant(s) and their spouses, continues to be 51 percent or greater.

(3) A project involving the transfer of land used primarily for the raising of food, fiber or forage crops, trees, flowers, shrubs, turf products, livestock or poultry, or for aquaculture, to the extent that, and for so long as, the project's water use continues to be for such agricultural water use purposes.

(4) A project that satisfies all of the following conditions:

(i) The existing Commission approval is less than ten (10) years old.

(ii) The project has no associated precompact consumptive water use.

(iii) The project has no associated diversion that was initiated prior to January 23, 1971.

(iv) The project has no associated groundwater withdrawal that was initiated prior to July 13, 1978, unless such withdrawal has otherwise been approved by the Commission.

(v) The project has no associated surface water withdrawal that was initiated prior to November 11, 1995, unless such withdrawal has otherwise been approved by the Commission.

(vi) The project is not the subject of a pending compliance or enforcement matter before the Commission.

(vii) The project features related to the source, withdrawal, diversion or consumptive use of water, or the nature or quantity of water withdrawal, diversion or use associated with the project, as identified in the existing Commission approval, have not changed or will not change upon its transfer. For purposes of this paragraph, changes in the quantity of water withdrawal, diversion or consumptive use shall only relate to increases in quantity in excess of the approved quantity. If the project involves both a consumptive water use and an associated withdrawal, then the withdrawal must have been approved by the Commission.

(c) An existing Commission approval of a project that satisfies the following conditions may be conditionally transferred and the project sponsor may only operate such project in accordance with and subject to the terms and conditions of the conditionally transferred approval, pending action by the Commission on the application submitted in accordance with paragraph (c)(3) of this section:

(1) The project satisfies all of the following conditions:

(i) The existing approval is less than ten (10) years old.

(ii) The project is not the subject of a pending compliance or enforcement matter before the Commission.

(iii) The project features related to the source, withdrawal, diversion or consumptive use of water, or the nature or quantity of water withdrawal, diversion or consumptive use associated with the project, as identified in the existing Commission approval, have not changed or will not change upon its transfer. For purposes of this paragraph, changes in the quantity of water withdrawal, diversion or consumptive use shall only relate to increases in quantity in excess of the approved quantity.

(2) The project satisfies one or more of the following conditions:

(i) The project has an associated precompact consumptive water use.

## Susquehanna River Basin Commission

## § 806.8

(ii) The project has an associated diversion that was initiated prior to January 23, 1971.

(iii) The project has an associated groundwater withdrawal that was initiated prior to July 13, 1978 and that has not been approved by the Commission.

(iv) The project has an associated surface water withdrawal that was initiated prior to November 11, 1995 and that has not been approved by the Commission. The project has a consumptive water use approval and has an associated withdrawal that has not been approved by the Commission.

(3) The project sponsor submits an application to the Commission, in accordance with this part, within ninety (90) days from the date of the change of ownership, requesting review and approval of the applicable consumptive use, diversion or withdrawals, identified in paragraph (c)(2) above, as a modification to the conditionally transferred approval.

(d) An existing Commission project approval for any project not satisfying the requirements of paragraphs (b) or (c) of this section may be conditionally transferred and the project sponsor may only operate such project in accordance with and subject to the terms and conditions of the conditionally transferred approval, pending action by the Commission on an application the project sponsor shall submit to the Commission, provided that:

(1) The new project sponsor submits an application to the Commission, in accordance with this part, within ninety (90) days from the date of the change of ownership, requesting review and approval of the project; and

(2) The project features related to the source, withdrawal, diversion or consumptive use of water, or the nature or quantity of water withdrawal, diversion or consumptive use associated with the project do not change pending review of the application. For purposes of this paragraph, changes in the quantity of water withdrawal, diversion or consumptive use shall only relate to increases in quantity in excess of the quantity withdrawn, diverted or consumptively used prior to the change of ownership.

(e) An existing Commission project approval may be re-issued by the Exec-

utive Director at the request of a project sponsor undergoing a change of name, provided such change does not affect ownership or control of the project or project sponsor. The project sponsor may only continue to operate the project under the terms and conditions of the existing approval pending approval of its request for re-issuance, provided it submits its request to the Commission within 90 days from the date of the change, which notice shall be on a form and in a manner prescribed by the Commission, accompanied by the appropriate fee established therefore by the Commission.

[71 FR 78579, Dec. 29, 2006, as amended at 73 FR 1273, Jan. 8, 2008; 75 FR 60620]

### § 806.7 Concurrent project review by member jurisdictions.

(a) The Commission recognizes that agencies of the member jurisdictions will exercise their review and approval authority and evaluate many proposed projects in the basin. The Commission will adopt procedures to assure compatibility between jurisdictional review and Commission review.

(b) To avoid duplication of work and to cooperate with other government agencies, the Commission may develop administrative agreements or other cooperative arrangements, in accordance with the procedures outlined in this part, with appropriate agencies of the member jurisdictions regarding joint review of projects. These agreements or arrangements may provide for joint efforts by staff, delegation of authority by an agency or the Commission, or any other matter to support cooperative review activities. Permits issued by a member jurisdiction agency shall be considered Commission approved if issued pursuant to an administrative agreement or other cooperative arrangement with the Commission specifically providing therefor.

[71 FR 78579, Dec. 29, 2006, as amended at 75 FR 60620, Oct. 1, 2010]

### § 806.8 Waiver/modification.

The Commission may, in its discretion, waive or modify any of the requirements of this or any other part of its regulations if the essential purposes